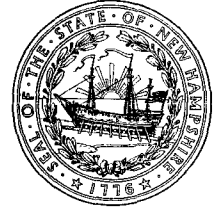




The State of New Hampshire  
**Department of Environmental Services**



**Michael P. Nolin**  
Commissioner

John Boudreault, Sr.  
RR #1 Box 24A  
North Haverhill, NH 03774

**ADMINISTRATIVE ORDER**  
**No. WD 05-028**

September 9, 2005

**A. INTRODUCTION**

This Administrative Order is issued by the Department of Environmental Services, Water Division to John Boudreault, Sr. pursuant to RSA 485-A:4 and RSA 485-A:42. This Administrative Order is effective upon issuance.

**B. PARTIES**

1. The Department of Environmental Services, Water Division ("DES"), is a duly-constituted administrative agency of the State of New Hampshire, having its principal office at 29 Hazen Drive, Concord, New Hampshire.
2. John Boudreault, Sr. is an individual having a mailing address of RR #1 Box 24A, North Haverhill, New Hampshire 03774.

**C. STATEMENTS OF FACTS AND LAW**

1. RSA 485-A:4, XVI-a authorizes DES to regulate the removal, transportation, and disposal of septage through administration of a permit system. Pursuant to RSA 485-A:6, X-a, the Commissioner of DES has adopted NH Administrative Rules Env-Ws 1600 ("the Septage Rules") to implement this program.
2. John Boudreault, Sr. is the operator and property owner of the septage lagoon facility located at 3255 Dartmouth Highway in North Haverhill, New Hampshire ("the Facility"). The Facility consists of one unlined septage lagoon.
3. Mr. Boudreault disposes of septage liquid via infiltration to groundwater through the septage lagoon at the Facility.
4. Pursuant to Env-Ws 1604.02(d)(1) and (4), a facility permit is required for the processing, treatment, or disposal (other than land application) of septage; and the construction, operation, and closure of septage lagoons.
5. On July 17, 2000, DES issued a Septage Facility Closure Plan Approval to Mr. Boudreault. Section IV.1 of the Approval states: "If [John Boudreault] intends to operate the facility... subsequent to the expiration of Groundwater Discharge Permit No. GWP-198402027-H-001, a Facility Permit must be obtained in accordance with Env-Ws 1608 by that time (i.e., April 14, 2004)".

6. On August 23, 2000, DES issued a letter to Mr. Boudreault requesting a Response Plan to mitigate violation of Ambient Groundwater Quality Standards ("AGQS") for nitrate and total coliform in two of the Facility groundwater monitoring wells.
7. During each year of 2000, 2001, 2002 and 2003, the AGQS was exceeded in at least one of the monitoring wells at the Facility.
8. On October 15, 2003, DES issued a letter to Mr. Boudreault reminding him of the requirement to file a septage facility permit application by December 16, 2003. In the letter DES stated that if the groundwater permit expires before a septage facility permit is issued "continued operation past the permit expiration will be in violation of the Rules; which may result in penalties."
9. On January 15, 2004, DES received a septage facility permit application from Provan and Lorber, Inc. ("P&L") on behalf of Mr. Boudreault. The application consisted of a completed application form only and without any of the required attachments per Env-Ws 1608.
10. On January 27, 2004, DES issued a notice to P&L specifying that the application was incomplete, and requested that the information required by Env-Ws 1608.01 be submitted by March 1, 2004.
11. On April 5, 2004, DES received some of the required information from P&L.
12. On April 14, 2004, DES issued a second letter to P&L, stating that the information provided to date remained insufficient to process the application. Twenty items of information were requested to be submitted by June 1, 2004. The letter stated that continued operation of the Facility must be in accordance with the expired groundwater permit.
13. On June 24, 2004, DES issued a reminder to Mr. Boudreault that the information due on June 1, 2004 had not been received, and set a final date of July 9, 2004 for the required information. The letter reiterated that continued Facility operation must be in accordance with the expired groundwater permit.
14. On June 29, 2004, P&L informed DES that they were no longer under contract with Mr. Boudreault, and that another engineering firm – Horizon Engineering ("Horizon") – was being retained by Mr. Boudreault.
15. On July 7, 2004, DES faxed a copy of its April 14, 2004 letter to Horizon.
16. On August 2, 2004, DES issued a letter to John Boudreault, Jr. summarizing a July 30, 2004 on-site meeting between DES, Horizon, John Boudreault, Sr. and his son John Boudreault, Jr. At this meeting Mr. Boudreault informed DES that John Boudreault, Jr. was running the septic pumping and disposal side of the business. It was agreed that all the information requested in the April 14, 2004 letter from DES would be submitted by September 30, 2004. It was again reiterated that continued operation of the Facility would be in accordance with the expired groundwater permit until a final decision was made on the septage facility permit application.
17. On October 4, 2004, Horizon requested a 45-day extension to the previously agreed to submittal due date. The Horizon letter was copied to John Boudreault, Jr.

18. On November 19, 2004, Horizon requested guidance from DES on a proposed lagoon facility operation and management plan. The twenty specific items requested in DES' April 14, 2004 letter remained outstanding.
19. On December 13, 2004, DES responded to Horizon's request for guidance.
20. On April 8, 2005, DES issued a letter to John Boudreault, Jr. reminding him that it had been a year since the groundwater permit expired and eight months since the on-site meeting and the extended deadline to submit the information required to process the application. Mr. Boudreault, Jr. was also reminded in the letter that the groundwater monitoring for 2004 required by the groundwater permit had not been received by DES.
21. On June 2, 2005, DES staff met with Horizon and the Boudreaults at Horizon's office in Littleton, NH. At the meeting it was agreed that by July 15, 2005, Mr. Boudreault, Sr. will file an application for the sub-surface system component of the proposed septage facility, and would file all remaining information for the septage facility permit application by August 15, 2005. At the meeting Mr. Boudreault, Jr. could not verify whether any groundwater monitoring had been conducted at the lagoon site in 2004.
22. On June 24, 2005, DES issued a letter to Mr. Boudreault, Jr. directing the immediate sampling of groundwater, with submission of results to DES by July 31, 2005.
23. On August 8, 2005, DES received an incomplete sub-surface permit application.
24. Information required by the Rules to complete septage facility permit application, and groundwater monitoring data, has not been received to date.

#### **D. DETERMINATION OF VIOLATIONS**

1. John Boudreault, Sr. has violated Env-Ws 1604.02(a)(1) by continuing to dispose of septage at the Facility past the April 14, 2004 expiration of Groundwater Discharge Permit No. GWP-198402027-H-001.
2. John Boudreault, Sr. has violated Env-Ws 1604.02(h) by continuing to dispose of septage at the Facility past the April 14, 2004 expiration of Groundwater Discharge Permit No. GWP-198402027-H-001.
3. John Boudreault, Sr. has violated Condition 8 of Groundwater Discharge Permit No. GWP-198402027-H-001, by failing to monitor groundwater at the Facility in 2004.
4. John Boudreault, Sr. has violated Condition 13 of Groundwater Discharge Permit No. GWP-198402027-H-001, by failing to submit an Annual Report for the Facility in 2004.

#### **E. ORDER**

Based on the above findings, DES hereby orders John Boudreault, Sr. as follows:

1. John Boudreault, Sr. shall cease all discharge of septage to the Facility, until otherwise directed by DES.

2. John Boudreault, Sr. shall submit a complete application to DES in accordance with Env-Ws 1608 by **September 30, 2005**. If a complete application is not submitted on or before September 30, 2005, Mr. Boudreault, Sr. shall immediately commence lagoon closure activities as per the Approved Closure Plan dated July 17, 2000.
3. John Boudreault, Sr. shall continue to monitor groundwater and follow all conditions of the expired Groundwater Discharge Permit No. GWP-198402027-H-001, until otherwise directed by DES.
4. Send correspondence, data, reports, and other submissions made in connection with this Administrative Order, **other than appeals**, to DES as follows:

Alexis Rastorguyeff, P.E., Residuals Management Section  
DES Water Division  
29 Hazen Drive P.O. Box 95  
Concord, NH 03302-0095 Fax: (603) 271-4128  
e-mail: arastorguyeff@des.state.nh.us

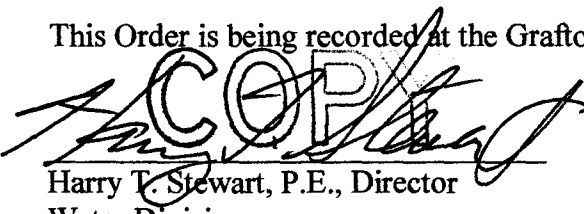
#### F. APPEAL


Any person aggrieved by this Order may appeal the Order to the Water Council by filing an appeal that meets the requirements specified in Env-WC 200 within 30 days of the date of this Order. Copies of the rule are available from the DES Public Information Center at (603) 271-2975 or at <http://www.des.state.nh.us/desadmin.htm>. Appealing the Order does not automatically relieve John Boudreault, Sr. of the obligation to comply with the Order.

#### G. OTHER PROVISIONS

Please note that RSA 485-A:43 provides for administrative fines, civil penalties, and criminal penalties for the violations noted in this Order, as well as for failing to comply with the Order itself. Mr. Boudreault remains obligated to comply with all applicable Groundwater Discharge requirements. DES will continue to monitor Mr. Boudreault's compliance with applicable requirements and will take appropriate action if additional violations are discovered.

This Order is being recorded at the Grafton County Registry of Deeds so as to run with the land.

  
Harry T. Stewart, P.E., Director  
Water Division

  
Michael P. Nolin, Commissioner  
Department of Environmental Services

Certified Mail/RRR: 7099 3400 0018 1294 5657

cc: Gretchen Hamel, DES Legal Unit  
Public Information Officer, DES PIP Office  
Mitch Locker, P.G., DES Water Supply Engineering Bureau  
Glenn E. English, Haverhill Town Administrator